



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
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FORT DETRICK, MD 21702-5012

MCMR-ZA-J
MEMORANDUM FOR SEE DISTRIBUTION

10 January 2006

SUBJECT: Procurement Advisory Notice PAN 06-05*

Interim Guidance: Appropriated funds through US Army Medical Research Acquisition Activity (USAMRAA) provided to US Army Medical Research and Materiel Command (USAMRMC) labs via Cooperative Research and Development Agreements (CRADAs)

1. **Introduction.** The USAMRAA receives proposals wherein funds provided to Awardees/Recipients via contracts, grants, and cooperative agreements will be sent, in part, to a USAMRMC lab via CRADAs to carry out some or all of the research. This round-about means of getting funds to the labs is legal. However, just because a practice is legal does not mean that it is wise. The USAMRAA must take a good business-sense approach in evaluating each such proposal.

2. **Background.**

a. The USAMRMC's efforts to obtain new technologies combine intramural research, "Acquisition" activities, and Technology Transfer activities.

b. Normally, when USAMRMC wants its own personnel to perform particular research, USAMRMC Resource Management personnel send funds via a Funding Authorization Document (FAD) to the relevant lab or research activity. Normally, when USAMRMC wants an extramural party to carry out the particular research, USAMRAA uses a procurement contract or assistance agreement as the legal instrument to authorize support and provide the funding. When the research involves participation by both a USAMRMC lab and an outside Recipient, normally USAMRMC and USAMRAA will do both of the above. This is the "schoolhouse" solution for funding combined intramural/extramural research projects. There are two reasons for this:

(1) First, Awardees/Recipients are allowed to recover their indirect costs, which generally range from 10 percent to 50 percent of their own direct costs. In addition, the Awardees/Recipients are allowed to recover at their indirect rate for the first \$25,000 that the Awardees/Recipients will sub-award out. Thus, if the Awardees/Recipients are planning to sub-award part of the money to a USAMRMC lab (via a CRADA), it will cost the Government \$2,500 to \$12,500 for doing what USAMRMC can do for virtually nothing via a FAD.

*This PAN supersedes PAN 06-05, 28 Dec 05, subject: Interim Guidance: Appropriated funds through US Army Medical Research Acquisition Activity (USAMRAA) provided to US Army Medical Research and Materiel Command (USAMRMC) labs via Cooperative Research and Development Agreements (CRADAs)

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(2) Second, for the Awardees/Recipients to send funds to a USAMRMC lab requires the Government to enter two legal agreements with contradictory legal mandates. There must be either a contract or assistance agreement (under the Federal Acquisition Regulation or Department of Defense Grant and Agreement Regulations to send the Awardees/Recipients funds. Then there must be a CRADA between the Awardees/Recipients and the USAMRMC lab (under the Federal Technology Transfer Act.) Usually, a single agreement would be better, because it lessens the chances for confusion or litigation. For example, one agreement makes it clearer which party is accountable for accomplishing the research, and who will own new inventions.

c. However, sometimes the schoolhouse solution does not make good business sense. The most common example is where the combined intramural/extramural research requires a multi-year effort. Because of Fiscal Law constraints, research Appropriations normally must be either spent internally or obligated externally by the Government within two years of the fiscal year the money was appropriated, or else the funds are required to be returned to the US Treasury. Consequently, if the combined research project does not call for having the USAMRMC lab use up its part of the funds until after the money would “expire,” then it probably makes good business sense for USAMRAA to send all the funds to an Awardee/Recipient.

3. Costs Principles. Where, for reasons described in 2c, the Awardee/Recipient is intending to pass award funds to a USAMRMC lab via a CRADA, Contracting and Grants management staff should consider the following guidance:

a. Generally speaking, the proposed budget for a USAMRMC lab should be reviewed and treated like any other non-Federal government subawardee; i.e., the lab’s budget should meet the basic guidelines for allowability, allocability, and reasonableness for costs set forth in Office of Management and Budget (OMB) Circular No. 87 – Cost Principles for State, Local, and Indian Tribal Governments.

b. Direct Costs. Contracts and assistance agreements may include the direct costs normally considered by the USAMRMC lab to carry out the project.

c. Travel Costs. The contract or grant to the Awardee/Recipient may include funds for travel by a Government employee. (USAMRMC labs being offered travel funds through CRADAs should follow the procedures and regulations concerning Gifts of Travel Benefits from Non-Federal Sources).

d. Indirect Costs. Contracts and Grants management staff may include those reasonable and adequately documented indirect costs as determined by appropriate

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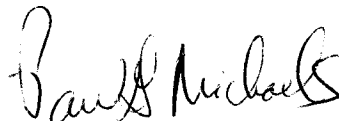
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Activity Based Costing/Management methodology. Where the lab has not documented an indirect cost rate, USAMRAA may use the 10 percent Interagency Services rate (per OMB Cir. No. 87, Attachment A, paragraph G).

4. **Recommendation.** Where the Awardee/Recipient is intending to send funds to a USAMRMC lab, USAMRAA staff should provide greater scrutiny to ensure that an adequate business case is made to justify USAMRAA not sending the funds directly to the lab. For example, where appropriate, the Contract Specialist will document the file indicating the proposed research involves a multi-year effort. Thus, the proposed efforts and expenditures by the USAMRMC lab will extend beyond the expiration date of the appropriation for these research funds. Therefore, all funds were forwarded to the Awardee/Recipient rather than being held at USAMRAA for future use by the USAMRMC lab.

5. **Point of Contact.** Robert L. Charles, Attorney Advisor, Office of the Staff Judge Advocate, USAMRMC. Robert.Charles@amedd.army.mil (301) 619-7663.



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